

# MORGANTOWN BOARD OF ZONING APPEALS

## MINUTES

March 15, 2006

6:30 P.M.

City Council Chambers

**Members Present:** Nick Iannone, Jim Rockis, Bernie Bossio, Mark Furfari and Jim Shaffer.

**Members Absent:** NONE.

**Staff Present:** Chris Fletcher, Planning Director.

### MATTERS OF BUSINESS:

Motion to approve the minutes of February 28, 2006, as written, by Rockis, second by Bossio. Motion carried unanimously.

**OLD BUSINESS:** NONE.

### NEW BUSINESS:

1. **CU06-01 / Frame / 140-142 Hoffman Avenue:** Request by William Frame for conditional use approval of a "Dwelling, Zero Lot Line" establishment at 140-142 Hoffman Avenue. Tax Map #14, Parcel #385; an R-1-A District.

Fletcher read the Staff report stating that the applicant seeks to subdivide an existing 86' X 100' parcel into a 52.67' X 100' parcel and a 33.33' X 100' parcel for the purpose converting an existing duplex (erected circa 1980) into two single-family attached, zero-lot line dwellings. Addendum A of this report further illustrates the site location. Table 300.05.01 "Permitted Land Uses" of the zoning ordinance (01.03.06) provides that "Dwellings, Zero Lot Line" are considered conditional uses in the R-1-A zoning district. Final approval of the request requires two separate but contingent actions: Minor Subdivision Approval by the Planning Commission and Conditional Use Approval by the Board of Zoning Appeals. The Planning Commission was unable to meet in March and will consider this matter at the April meeting.

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant.

Fletcher explained that Staff believes that the petitioner's request is reasonable, concurs with the "Findings of Fact" submitted by the applicant, and recommends approval with the following conditions:

1. That the applicant must obtain subdivision approval from the Planning Commission;
2. That the applicant must, to the satisfaction of the Planning Director, achieve compliance with building code requirements relating to dwelling unit separation;

3. To ensure that existing off-street parking remain available to both dwelling units, access to the rear parking area of 140 Hoffman Avenue across 142 Hoffman Avenue be adequately secured through a permanent easement running with the land and illustrated on the final plat required by the Planning Commission.

Mr. Frame was available to answer any questions and explained that he has an existing duplex situated among mainly single-family residential dwellings. He would like to promote owner-occupancy of each unit.

Rockis asked what alternative he would have if this is not granted.

Mr. Frame responded that Plan B is to maintain it as the rental property it currently is.

Shaffer noted the joint use driveway to the garages.

Mr. Frame stated that a permanent easement or right-of-way over 140 to 142 would be established.

Bossio inquired if a maintenance agreement would be attached to that.

Mr. Frame replied that it could be incorporated as part of the easement.

Iannone asked for public comments. There being none, the public portion was closed.

Carol Wilkinson, 131 Hoffman Avenue, explained that they were interested in retaining the single-family neighborhood characteristics and they are currently surrounded by apartment developments on three sides. She applauded Mr. Frame's improvements and understands that he may wish to sell halves of the duplex independently. The information she assembled shows that one lot meets the size code and the other does not. She questioned the number of persons able to legally inhabit the premises now and the number if this variance is granted. Previous tenants have caused this concern and she and her husband do not support this action. Ms. Wilkinson submitted a copy of her letter.

Bossio questioned her mention of condos and a City Council meeting, if previous renters had been students, and if she could see any possible benefit if it was owner occupied.

Fletcher clarified that condominium is an ownership relationship and not a housing type; that her reference to City Council was incorrect and should have been the Planning Commission; that the maximum occupancy would not change from the present condition; and, the lot size issue is for the Planning Commission to decide.

Rockis asked if the main objection was the lot size.

Ms. Wilkinson replied that the lot size was the main problem.

Craig Mains, 137 Hoffman Avenue, said that he and his wife came to find out details. There have been issues in the past with the rental units and they are trying to maintain the character of the neighborhood. The list of concerns includes dealing with one landlord or two, and, since they live across the street, aesthetic matters. It may be beneficial if the split if the split led to owner occupied but there is no guarantee of that so he objects.

Don Trevorrow, 512 Milford Street, stated that zero lot lines should be restricted to business areas, not residential.

Mr. Frame replied that the correspondence to his office was a list a complaints. He agreed with the problems and responded by changing the condition of the property. Mr. Frame spoke of tenant problems since he bought the property and the improvements made to the property. There is adequate off-street parking for six vehicles. The duplex was erected on one portion of two city lots. Mr. Frame stated the units are more likely to be owner occupied if the conditional use is granted.

Iannone asked for further public comments. There being none, the public portion was closed.

Fletcher individually read each Finding of Fact, the applicant's corresponding response, and the Staff recommendation. He submitted that Staff believes the petitioner's request is reasonable. For Finding of Fact #1 through #8, Staff recommends that the BZA find in the POSITIVE by accepting the applicant's response as submitted.

The Board voted upon each Finding of Fact after the individual reading. Each Finding of Fact passed 5-0.

Motion by Shaffer to approve the request with Staff recommended conditions as well as a condition to provide a maintenance provision for the driveway as a part of the easement, second by Rockis. Motion carried unanimously.

#### **OTHER BUSINESS:**

**Public Comments:** NONE.

**Staff Comments:** NONE.

#### **ADJOURNMENT**

**ATTACHED:** March 15, 2006 letter of opposition from Carroll Wetzel Wilkinson, 131 Hoffman Avenue